

(1) Hazardous materials requiring placarding under part 172, subpart F, of this title; or

(2) 15 or more passengers, including the driver.

[56 FR 40806, Aug. 16, 1991]

**§ 385.13 Unsatisfactory safety rating—Prohibition on transportation of hazardous materials and passengers.**

(a)(1) A motor carrier that receives a safety rating from the Federal Highway Administration which is “unsatisfactory” shall have 45 calendar days from the effective date of that rating or from the date of notice of that rating, whichever is later, to take such action as may be necessary to improve such safety rating to “conditional” or “satisfactory.”

(2) *Prohibition on transportation.* After the last day of the 45-day period established pursuant to paragraph (a)(1) of this section and until notification is issued pursuant to this part of either a “conditional” or “satisfactory” safety rating, a motor carrier rated “unsatisfactory” shall be prohibited from operating a commercial motor vehicle to transport—

(i) Hazardous materials for which vehicle placarding is required pursuant to this title; or

(ii) More than 15 passengers, including the driver.

(3) *Ineligibility for Federal Government transportation.* Any motor carrier that receives a safety rating of “unsatisfactory” shall be ineligible to contract or subcontract with any Federal agency for the transportation of—

(i) Hazardous materials for which vehicle placarding is required pursuant to this title; or

(ii) More than 15 passengers, including the driver.

(b) *Penalties.* Any motor carrier that operates commercial motor vehicles in violation of this section will be subject to the penalty provisions of 49 U.S.C. App. 1809 and 49 U.S.C. 521.

[56 FR 40806, Aug. 16, 1991]

**§ 385.15 Request for a change in a safety rating; facts and procedure.**

(a) A petition for review of a safety rating, where there are factual or procedural disputes, must list all issues in

dispute and be accompanied by any information or documents the motor carrier is relying upon as the basis for its petition.

(b)(1) The petition must be submitted to the Director, Office of Motor Carrier Field Operations, within 90 days of the date of notification of the assignment, or change, of a safety rating.

(2) Motor carriers affected by the provisions of § 385.13 should submit their petitions and supporting documentation to the Director, Office of Motor Carrier Field Operations, within 15 days from the date of notification of the assignment of a safety rating.

(c) As part of the consideration of a petition, the Director, Office of Motor Carrier Field Operations, may request the motor carrier to submit additional data and attend a conference to discuss the safety rating. Failure to provide such data or to attend the conference may result in dismissal of the petition.

(d) The Director, Office of Motor Carrier Field Operations, shall notify the motor carrier in writing of a decision on a petition for review of a safety rating, which will constitute the final agency action. The decision may:

(1) Confirm the rating; or

(2) Revise the rating.

[56 FR 40806, Aug. 16, 1991]

**§ 385.17 Request for a change in a safety rating; corrective action taken.**

(a) A request for a change in a safety rating may be made when the basis for the change is evidence that corrective actions have been taken and that operations currently meet the safety fitness standard specified in § 385.5. The request shall be directed in writing, via certified mail, to the Regional Director of Motor Carriers for the FHWA Region in which the motor carrier maintains its principal place of business for safety. The Regional Office addresses are listed in § 390.27 of this subchapter. Such a request shall include a written description of corrective actions taken and other documentation that may be relied upon as a basis for improving the assigned rating.

(b) The FHWA will make its determination based upon documentation submitted or any additional investigation deemed necessary.

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(c) In cases where the FHWA is unable to make a determination within the 45-day period established in § 385.13 and the motor carrier has submitted evidence that corrective actions have been taken pursuant to paragraph (a) of this section, and has cooperated in any investigation, the FHWA may conditionally suspend the effective date of the “unsatisfactory” safety rating for an additional period of up to 10 days.

[56 FR 40806, Aug. 16, 1991, as amended at 61 FR 1843, Jan. 24, 1996]

**§ 385.19 Safety fitness information.**

(a) Safety rating information on motor carriers will be made available to all Federal agencies telephonically or by remote computer terminals.

(b) The safety rating assigned to a motor carrier will be made available to the public upon request. Any person requesting the assigned rating of a motor carrier should provide the FHWA with the motor carrier name, principal office address, and the ICC assigned docket number, or the U.S. DOT identification number.

(c) Requests should be addressed to: OMC—Safety Rating, P.O. Box 13028, Arlington, Virginia 22219.

(d) Oral requests by telephone will be accepted and may be made by calling (703) 276-6876. Oral requests made by telephone will be sent a written response if so requested.

[56 FR 51344, Oct. 11, 1991]

**§ 385.21 Motor carrier identification report.**

(a) All motor carriers currently conducting operations in interstate or for-

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eign commerce shall file a Motor Carrier Identification Report, Form MCS-150, within 90 days after the effective date of this rule. Exception: The provisions of this section do not apply to a motor carrier that has received written notification of a safety rating from the FHWA.

(b) All motor carriers beginning operation after the effective date of this rule shall file the Motor Carrier Identification Report, Form MCS-150, within 90 days after beginning operations.

(c) The Motor Carrier Identification Report, Form MCS-150, is available from all FHWA region and division motor carrier safety offices nationwide and from FHWA Office of Motor Carrier Information Management and Analysis, 400 Seventh Street, SW., Washington, DC 20590.

(d) The completed Motor Carrier Identification Report, Form MCS-150, shall be filed with the FHWA, Office of Motor Carrier Information Management and Analysis, 400 Seventh Street, SW., Washington, DC 20590.

**§ 385.23 Failure to report.**

Failure by a motor carrier to file a Motor Carrier Identification Report, Form MCS-150, pursuant to the provisions of § 385.21, or furnishing misleading information or making false statements upon the MCS-150 shall subject the offender to the penalties prescribed in title 49, United States Code, 522(b).

[53 FR 50968, Dec. 19, 1988, as amended at 60 FR 38743, July 28, 1995]